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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,273	03/12/2004	Hansrudolf Iseli	41281.0006	7205
26712	7590	08/04/2005	EXAMINER	
HODGSON RUSS LLP ONE M & T PLAZA SUITE 2000 BUFFALO, NY 14203-2391			KENNEDY, JOSHUA T	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/799,273	ISELI, HANSRUOLF	
	Examiner	Art Unit	
	Joshua T. Kennedy	3679	JK

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

Claims 1-9 have been examined.

#### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10/799,273, filed on 3/14/2004.

#### ***Specification***

The abstract of the disclosure is objected to because it appears to be a literal translation into English from a foreign document and is replete with grammatical and idiomatic errors. Correction is required. See MPEP § 608.01(b).

#### ***Claim Objections***

Claim 1 is objected to because of the following informalities: In lines 20-21, it should read -- the second clamps are pressed --. Appropriate correction is required.

Claims 2-9 are objected to because of the following informalities; please substitute the phrase "characterized in that" with --wherein-- on the second line of each Claim 2-9. Appropriate correction is required.

Claim 7 is objected to because of the following informalities: please designate on line 3 of the claim that "the base plate is thinner than the two legs and the clamps" or "the base plate is thinner than the two legs or the clamps"

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz (US 4,007,993) in view of Bernstein (5,641,257).

Referring to Claim 1. Schwartz discloses a cross clamping device with a base plate (16) which has a first and a second leg (11; Examiner considers each flat portion on either side of item 21 where the screws (item 13) are to be placed to be legs) and a clamping piece (21) which connects the two legs with each other, a first clamp (Fig. 1; Examiner considers the portions being attached to the first and second legs and receiving the screws through said legs to be the first and second clamp portions), which by means of a first screw (13) is screwed onto the first leg, and a second clamp (Fig. 1), which by means of a second screw (13) is screwed onto the second leg, wherein the base plate and the two clamps are so formed that between the first and the second clamp a first bar, and between the two clamps and the clamping piece of the base plate a second bar, which is rotated by 90 degrees in relation to the first bar are able to be clamped (Fig 5). However, Schwartz does not disclose the first and the second screw

Art Unit: 3679

each having a head, which is at least partially conical shaped, so that by tightening of the first and of the second screw the first and the second clamp are pressed by the slanting conical surface against the first bar and the two bars are capable of being clamped.

Bernstein teaches a sliding clamp "for holding a part in a desired position having a screw having a tapered head, which engages an inner bearing surface of the sliding clamping member to simultaneously apply clamping forces against a work piece and securing forces to anchor the sliding clamp member"(See Abstract, lines 1-7). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the clamping device of Schwartz to include the screws to have a tapered head, to engage an inner bearing surface of the sliding clamp as taught by Bernstein to in order to simultaneously apply clamping forces against a work piece and securing forces to anchor the sliding clamp member so that the first and second bars are secured to each other as tightly as possible.

Referring to Claim 2. Schwartz in view of Bernstein disclose at least one of the two clamps being additionally screwed onto the accompanying leg of the base plate by means of a further screw. Schwartz discloses in Claim 1 "said gripping members being adapted to be mated together" (Col 4, Lines 6-7). It would have been obvious to one of ordinary skill in the art to add a further screw on either of the accompanying legs of the base plate because further screws would allow for a more rigidly secured mating connection between the gripping members (legs and clamps) at that location. A

Art Unit: 3679

reference is not limited to its preferred embodiment, but must be evaluated for all of its teachings, including its teachings of non-preferred embodiments. In re Burckel, 592 F.2d 1175, 201 USPQ 67 (CCPA 1979).

Referring to Claim 3. Schwartz in view of Bernstein disclose the screws each having a shaft with a thread (Bernstein, 26) and have a head (22), the first leg of the base plate has at least a first hole with a thread (Schwartz, 31), in which the first screw is capable of being screwed, and the second leg of the base plate has at least a second hole (31) with a thread, in which the second screw is capable of being screwed.

Referring to Claim 4. Schwartz in view of Bernstein disclose at least one of the two clamps having a through hole (29), whose diameter at least in the direction towards the first bar is greater than the diameter of the screw shaft.

Referring to Claim 5. Schwartz in view of Bernstein disclose the through hole or at least one of the through holes having an enlargement (Bernstein, 42) on the side opposite from the base plate, in which the head (22) of the accompanying screw is at least partially inserted.

Referring to Claim 6. Schwartz in view of Bernstein disclose the enlargement at least on the side on the same side as the first bar being bordered by a slanting surface of the

Art Unit: 3679

clamp (24, 44) so that in the tightening of the screw the clamp is pressed against the first bar by the screw which is pressing on the slanting surface.

Referring to Claim 7. Schwartz in view of Bernstein disclose the clamping piece of the base plate is thinner than the two legs and/or the in the region of the clamping piece of the base plate are thinner than in the region of the legs, so that between the two clamps and the clamping piece of the base plate a space is present (25), in which the second bar is able to be clamped, while the clamps lie on the legs (Fig 1).

Referring to Claim 8. Schwartz in view of Bernstein disclose the two clamps each have at one of their ends a projection (Schwartz, 51) which extends to the other clamp and that the two projections are capable of touching each other.

Referring to Claim 9. Schwartz in view of Bernstein disclose the two clamps lying flat on the first bar (Fig 4) and on the second bar.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 5,310,299 to Bernstein cited to show a similar sliding clamp actuated by a beveled screw interacting with a corresponding slanted surface to create a clamping force.

Art Unit: 3679

US 3,550,969 to Robinson cited to show a similar clamp for two rods being connected at a 90 degree angle.

US 6,685,385 to Ledingham cited to show a similar clamp having 2 legs.

US 5,961,248 to Tourtellotte cited to show a similar clamp having 2 legs and a clamping piece held together by screws.

US 5,833,225 to Weber cited to show a similar sliding clamp actuated by a beveled screw interacting with a corresponding slanted surface to create a clamping force.

GB 2,241,735 A to Spence cited to show a similar clamp having 2 legs and a clamping piece held together by screws.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua T. Kennedy whose telephone number is (571) 272-8297. The examiner can normally be reached on M-F: 7am - 3:30 pm.

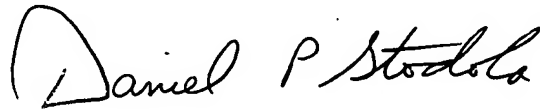
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Art Unit: 3679

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTK  
7/13/05

A handwritten signature in black ink that reads "Daniel P. Stodola". The signature is written in a cursive style with a large initial "D".

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600